



North Carolina Department of Environment and Natural Resources

Division of Waste Management

Beverly Eaves Perdue  
Governor

Dexter R. Matthews  
Director

Dee Freeman  
Secretary

September 9, 2010

Mr. J. Laurence Daw, LG  
The University of North Carolina at Chapel Hill  
1120 Estes Drive Ext., CB#1650  
Chapel Hill, NC 27599-1650

Re: **NOTICE OF REGULATORY REQUIREMENTS FOR CONTAMINANT ASSESSMENT AND CLEANUP**  
UNC – Cogeneration Facility  
575 West Cameron Avenue  
Chapel Hill, Orange County

Dear Mr. Daw:

The Inactive Hazardous Sites Branch (the Branch) of the Division of Waste Management's Superfund Section is in receipt of the *Notification of an Inactive Hazardous Substance or Waste Disposal Site* for the UNC-Cogeneration Facility (the Site). Because of the nature of the substance(s) discharged, regulatory oversight for the assessment and cleanup under all applicable authorities will be provided by the Branch. Depending on the contaminants involved and whether the contaminants have and/or may impact surface water and groundwater quality, you will be required to assess and cleanup the contamination under one or more cleanup authorities.

Based on information provided to date, the Inactive Hazardous Sites Response Act ("IHSRA"), codified under N.C. Gen. Stat. § 130A-310, et seq., applies to your site. In addition, initial immediate actions may be required under 15A NCAC 2L, Groundwater Classifications and Standards.

**I. ACTIONS REQUIRED AT THIS TIME:**

**Complete the Site Cleanup Questionnaire.**

To comply with the requirements of State law, a Site Cleanup Questionnaire, available on the website noted at the end of this letter, must be completed and returned to this office by **November 12, 2010**. The information you provide will be reviewed along with other information to prioritize the site, so please make certain that the information you provide is complete and accurate. Please note that your failure to inform the Branch of any nearby potable wells or other high risk conditions may adversely affect the Branch's ability to identify this site as a higher-risk site.

**Take Initial Abatement Actions Required Under 15A NCAC 2L.**

If you have not already done so, you must take the initial abatement actions required under 15A NCAC 2L. Pursuant to 15A NCAC 2L .0106(b), any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance to the groundwaters of the State, or in proximity thereto, shall take immediate action to terminate and control the discharge, and mitigate any hazards resulting from exposure to the pollutants. Pursuant to 15A NCAC 2L .0106(c), if groundwater standards have been exceeded, you must take immediate action to eliminate the source or sources of contamination. Beyond initial abatement actions, all assessment and remediation will be done through the IHSRA.

## **II. FUTURE ASSESSMENT AND CLEANUP ACTIVITIES:**

All correspondence regarding this site should be sent to the Branch. Future assessment and cleanup activities (activities conducted after the initial abatement steps required in 15A NCAC 2L) may be conducted through the Voluntary Cleanup Program (discussed below) or pursuant to an Order issued under N.C. Gen. Stat. § 130A-310.3. In addition, if you choose not to conduct a cleanup through the Voluntary Cleanup Program, the site may be referred to the United States Environmental Protection Agency (“EPA”). If so referred, EPA will screen the site for Federal enforcement action under the Federal Superfund Program, established under the Comprehensive Environmental Responsibility, Compensation, and Liability Act (“CERCLA”).

## **III. VOLUNTARY CLEANUP PROGRAM:**

Under the IHSRA, persons who move forward to assess and remediate contamination, without being compelled to do so through formal legal action filed against them, are called “volunteers.” To participate in the voluntary cleanup program, you will be required to enter into an administrative agreement with the Branch. The voluntary cleanup will proceed through the Registered Environmental Consultant Program or under direct oversight by the Branch Staff, as discussed below:

### **Agreement to Conduct Assessment and Remediation Through the Registered Environmental Consultant Program.**

The Branch has a privatized oversight arm of the voluntary cleanup program known as the Registered Environmental Consultant (“REC”) program. Based on the responses provided on the questionnaire (degree of hazard and public interest in the site), the Branch will determine whether a staff person or an REC will perform the oversight and approval of your assessment and cleanup action. Please note that having one or more of the conditions identified on the questionnaire does not necessarily preclude the site for qualifying for an REC-directed cleanup action.

Under the REC program, the volunteer hires an environmental consulting firm, which the State has approved as having met certain qualifications, to implement a cleanup and certify that the work is being performed in compliance with regulations. In other words, the REC’s certifications of compliance are in place of direct oversight by the Branch. Details of the REC program can be found at <http://portal.ncdenr.org/web/wm/sf/ihs/recprogram>. If you have any questions specific to the REC Program, including how to participate, please contact the REC Program Manager, Kim Caulk, at (919) 508-8451.

### **Agreement to Conduct Assessment and Remediation Under State Oversight.**

If the Branch determines that the site should be assessed and remediated pursuant to direct State oversight, it will not be eligible for a REC-directed cleanup. Rather, the remedial action will receive direct oversight by Branch staff.

## **IV. FAILURE TO RESPOND:**

If we do not receive a completed questionnaire within the time specified in Section I, the Branch will take further action to prioritize the site without your input. Failure to take the initial abatement steps required in 15A NCAC 2L may result in the assessment of a civil penalty against you. In addition, the Branch may seek an injunction compelling compliance with the initial abatement steps required in 15A NCAC 2L. For future work beyond the initial abatement steps required pursuant to 15A NCAC 2L, a unilateral Order may be issued pursuant to § 130A-310.3 to compel assessment and cleanup.

## **V. ADDITIONAL INFORMATION REGARDING THE IHSRA AND THE BRANCH:**

People are often confused by the name of the Inactive Hazardous Sites Response Act and the Branch. By definition, “Inactive Hazardous Sites” are any areas where hazardous substances have come to be located and would include active and inactive facilities and a variety of property types. The term “inactive” simply refers to the fact that cleanup was

inactive at large numbers of sites at the time of program enactment. Additional information about the Branch may be found at <http://portal.ncdenr.org/web/wm/sf/ihs/home>.

Submit completed questionnaire to: S. Wade Kirby, PE, PG  
Inactive Hazardous Sites Branch  
401 Oberlin Road, Suite 150  
Raleigh, NC 27699-1646

If you have additional questions about the requirements that apply to your site, please contact me at (919) 508-8469.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Wade Kirby". The signature is fluid and cursive, with a long, sweeping line extending from the top of the "y" in "Kirby" across the top of the signature area.

S, Wade Kirby, PE, PG, Environmental Engineer  
Inactive Hazardous Sites Branch  
Superfund Section